

## Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 FEAE-00 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

SAM-01 OES-06 SP-02 SS-15 STR-04 TRSE-00 ACDA-07 /096 W  
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R 171004Z NOV 76

FM AMEMBASSY RANGOON

TO SECSTATE WASHDC 2593

C O N F I D E N T I A L RANGOON 3801

E.O. 11652: GDS

TAGS: ENRG, BM

SUBJ: MARTABAN-CITIES SERVICE TO WITHDRAW FROM BURMA?

1. SUMMARY. MARTABAN-CITIES SERVICE, ONE OF TWO AMERICAN FIRMS DRILLING IN OFFSHORE BURMESE WATERS, HAS SERVED NOTICE ON MYANMA OIL CORPORATION (MOC), THE STATE-OWNED OIL CORPORATION, OF ITS INTENTION TO WITHDRAW FROM BURMA WITHOUT FULFILLING ITS CONTRACTUAL OBLIGATION TO DRILL SIX WELLS. THE BURMESE HAVE NOT YET RESPONDED TO THIS NOTIFICATION. THE TWO SIDES MAY WELL REACH A COMPROMISE PERMITTING MARTABAN-CITIES SERVICE TO WITHDRAW AFTER PAYING SOME PENALTY. HOWEVER, THE NEGOTIATIONS COULD ALSO END IN A RANCOROUS PARTING OF WAYS. END SUMMARY.

2. CONVINCED (AS ARE MANY OTHERS) THAT OFFSHORE OIL PROSPECTS ARE NOT PROMISING, MARTABAN-CITIES SERVICE RECENTLY OFFERED TO PAY MOC \$6 MILLION AND A QUANTITY OF DRILLING PIPE TO BREAK ITS DRILLING CONTRACT WITH MOC. MOC DECLINED THE OFFER AND INSISTED THAT MARTABAN-CITIES SERVICE COMPLETE ITS CONTRACTUAL DRILLING PROGRAM OF SIX WELLS (THREE WELLS HAVE BEEN COMPLETED). FOLLOWING THIS DEVELOPMENT, MARTABAN-CITIES SERVICE PRESENTED MOC WITH A "LETTER OF DISENGAGEMENT," I.E. FORMAL NOTICE  
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OF INTENT TO BREAK THE CONTRACT.

3. FACED WITH APPARENT BREACH OF CONTRACT, MOC NOW SEEMS TO HAVE THE RIGHT TO CALL THE LETTER OF CREDIT (PERFORMANCE BOND) POSTED WITH FIRST NATIONAL CITY BANK, NEW YORK, WHEN THE ORIGINAL DRILLING CONTRACT WAS SIGNED. THE PERFORMANCE BOND IN THE AMOUNT OF THE DRILLING CONTRACT (\$30.5 MILLION), WAS SUPPOSED TO BE REDUCED QUARTERLY BY MOC IN AMOUNTS EQUAL TO MARTABAN-CITIES SERVICE OPERATIONAL EXPENDITURES. HOWEVER, MOC HAS NOT DONE THIS, AND THE SIZE OF THE LETTER OF CREDIT IS CURRENTLY \$20.5 MILLION.

4. IN THE EVENT OF FAILURE OF MARTABAN-CITIES SERVICE TO PERFORM, THE PERFORMANCE BOND STATES THAT MOC MAY CALL THE PERFORMANCE BOND FOR THE DIFFERENCE BETWEEN THE CONTRACTED AMOUNT (\$30.5 MILLION) AND THE AMOUNT ACTUALLY SPENT BY MARTABAN-CITIES SERVICE IN WORK ON THE CONTRACT. MARTABAN-CITIES SERVICE CLAIMS, HOWEVER, THAT THE AMOUNT IT HAS SPEND TO DATE IN THE COMPLETION OF THREE HOLES IS \$32 MILLION, OR MORE THAN ITS CONTRACTUAL OBLIGATION, AND THUS IT OWES NOTHING IF THE BOND IS CALLED.

5. THERE IS AN ARBITRATION CLAUSE IN THE CONTRACT BETWEEN MOC, WHICH REPORTEDLY CALLS FOR ARBITRATION FIRST AT THE HAGUE, AND FINALLY IN BURMA. MARTABAN-CITIES SERVICE APPEARS TO BE CONVINCED THAT IT WILL EMERGE THE VICTOR FROM AN ARBITRATION PROCEDURE BECAUSE (A) MOC HAS BROKEN THE CONTRACT BY NOT REDUCING THE GUARANTEE QUARTERLY; AND (B) THERE IS NOTHING IN THE PERFORMANCE BOND WHICH SPECIFICALLY TIES THE AMOUNT OF MONEY SPENT TO THE NUMBER OF WELLS DRILLED, AND THUS MARTABAN-CITIES SERVICE CAN CLAIM THAT IT HAS FULFILLED THE TERMS OF THE PERFORMANCE BOND EVEN THOUGH SIX HOLES HAVE NOT BEEN DRILLED BECAUSE IT HAS SPENT THE ORIGINALLY CONTRACTED AMOUNT OF MONEY.

6. COMMENT. MARTABAN-CITIES SERVICE MAY NOT BE AS CONFIDENT AS IT SEEMS REGARDING FAVORABLE OUTCOME OF AN ARBITRATION PROCEDURE; THE FACT THAT MARTABAN-CITIES

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SERVICE TRIED (AND FAILED) TO BUY OUT THE CONTRACT IS ONE POINTER IN THIS DIRECTION. THE ULTIMATE WEAKNESS OF THE ARBITRATION PROCEDURE IS THAT THE FINAL STAGE IS CONDUCTED IN BURMA, WHERE THE OUTCOME IS MUCH MORE LIKELY TO FAVOR THE BURMESE. THIS IS BALANCED BY THE FACT THAT MARTABAN-CITIES SERVICE IS REPORTEDLY READY TO TAKE LEGAL ACTION IN THE UNITED STATES IF MOC TRIES TO COLLECT THE PERFORMANCE BOND. AS THE BURMESE HAVE

NOT YET RESPONDED TO THE "LETTER OF DISENGAGEMENT"  
(A FORMAL RESPONSE IS EXPECTED), IT NOT YET CLEAR  
HOW THE GUB WILL REACT TO MARTABAN-CITIES SERVICE'S  
WITHDRAWAL ATTEMPT. A NEGOTIATED SOLUTION TO THE  
PROBLEM IS STILL POSSIBLE (MARTABAN-CITIES SERVICE  
IS REPORTEDLY READY TO DRILL ONE MORE HOLE IF THAT  
WILL SECURE AN AMICABLE TERMINATION OF ITS DRILLING  
CONTRACT). HOWEVER, IF THE MATTER IS INEPTLY HANDLED  
BY EITHER OR BOTH PARTIES, THE POSSIBILITY OF A  
RANCOROUS PARTING OF WAYS CANNOT BE EXCLUDED.  
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